

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 10, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0173

DOUGHERTY COUNTY BOARD OF COMMISSIONERS ET AL V. JANICE HOWARD

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93015

02CV24141 256-68-8511

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

W. Z. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 14 2003

A03D0174. KENNETH RAY RAULS v. THE STATE

Kenneth Ray Rauls, pro se, filed this application for discretionary appeal from the trial court's November 4, 2002, order dismissing his extraordinary motion for new trial. The application was docketed in this Court on December 24, 2002. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Rauls filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 14 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

J. Z. Martin, III, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 05, 2003

The Court of Appeals passed the following order

Case No. A03D0174

KENNETH RAY RAULS V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

99-015

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 05, 2003*

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Matz; JR

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

(404) 656-3470

Sherie M. Welch, Clerk

Docketing Date: February 18, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C0807**

KENNETH RAY RAULS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0174

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

FEB 18 2003

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 26, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1023**

KENNETH RAY RAULS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0174

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 15, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0175

CASEY LAMB V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91015

01CR00113

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 15 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

W. Z. Martin, III

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 14, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0176
ALISHA GILBERT V. KATHY WALDEN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90015

1/14/03

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 14 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

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Clerk.



Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 16, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0177
SHAWNA PIPPIN-INGHAM V. CHADWICK EDWARD LAMBERT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94015

02CV1063

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 16 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. Z. Martin, III

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 09, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0178
ROBERT LEON ROWE V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92015

02R040

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 09 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above above written.*

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 09 2003**

A03D0179. KENNETH G. KNOTT v. KATHRYN KNOTT

Kenneth G. Knott filed this discretionary application from an order finding him in contempt for failing to comply with the property settlement provisions of the parties' final divorce decree. A contempt proceeding based on the failure to comply with the property settlement provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976). Accordingly, this application is hereby TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 09 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

W. Z. Mathis, Jr., Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 14, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0180
TOMMY HUGH GILES V. MICHAEL D. VASTAKIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71015

00CV359445

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 14 2003

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Clerk.

W. Z. Martin, III

**Court of Appeals
of the State of Georgia**

ATLANTA,

JAN 08 2003

The Court of Appeals hereby passes the following order:

A03D0181. BRIAN LEE SCHLAU v. THE STATE.

On December 27, 2002, Brian Lee Schlau filed an application seeking discretionary appeal of an order entered November 22, 2002. However, no application for discretionary appeal may be considered unless it is timely filed as provided under OCGA § 5-6-35 (d). Because Schlau's application was not filed within 30 days of the order complained of, the application is hereby ordered DISMISSED for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 08 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

W. Z. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 29, 2003

Honorable Court of Appeals hereby passes the following order:

A03D0181. BRIAN LEE SCHLAU v. THE STATE.

Upon consideration of the motion for reconsideration, it is ordered that it be hereby dismissed as untimely filed.

99R021

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 29 2003

*I certify that the above is a true extract from
minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, Jr.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0182
HECTOR GARCIA V. WBSG/WJXX ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95016

451689488

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 21 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.



Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0183
CHERYL A. BLOCKER V. COMMISSIONER GEORGIA
DEPARTMENT OF LABOR ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96016

02V1704

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 08 2003

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Clerk.

W. Z. Martin, III

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 22, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0184
RODERICK T. JONES V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98016

01R340

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 22 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Martin

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 07, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0185
WILLIAM EDWARD COLLINS, II V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97016

01CR17755R

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 07 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

W. Z. Martin, III

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 28, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0186
BLUE RIDGE HEALTHCARE ET AL V. ANGELA J. SHARPE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93016
2002V601

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 28 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 23, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0187
GREGORY A. WILLIAMS V. KILER HALL ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99016

2001CV45313

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 23 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; 

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 17, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0188
FREDRICK D. HUFF V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90016

SU95CR2273

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 17 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above above written.*

Clerk.

W. Z. Martin, III

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 24, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0189

JAMES L. WITMER V. ARLIE C. AUKERMAN ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94016

2000CV36752

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 24 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA JANUARY 13TH, 2003

The Court of Appeals hereby passes the following order:

A03D0190. WILLIAM MATTHEW CARR v. ANGELA DAWN CARR.

Upon consideration of the motion for withdrawal of the above styled application, it is hereby ordered that said motion be GRANTED.

92-016

02CV1676

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JANUARY 13, 2002*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

John Z. Mathis, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2003**

A03D0191. JAMES W. GIBSON v. INCOME PRODUCERS, LLC AND JON L. BIVINS

Upon consideration of the application for a discretionary appeal, it is ordered that the application be hereby DENIED.

Further, the Court finds the application for discretionary appeal to be frivolous and imposes a penalty pursuant to Court of Appeals Rule 15(b). The trial court is directed to enter judgment against the applicant and in favor of the respondents in the amount of \$500.00. See *Brown v. Benham*, 218 Ga. App. 518 (462 SE2d 184) (1995).

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 31 2003
*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 29, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0192
UNION CITY AUTO PARTS ET AL V. JAY EDWARDS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71016
02CV68HS

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 29 2003**

*I certify that the above is a true extract fromd
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Clerk.

Will. L. Matting

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 22, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0193
JAMIE ALAN BREWER V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95017

01SR12100

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 22 2003**

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the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

C. Will. L. Matier

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 27 2003**

A03D0194. DONALD MILLER v. ELIZABETH MILLER

Donald Miller filed this application for discretionary appeal from the superior court's order awarding attorney fees to Elizabeth Miller's attorney in the parties' divorce action. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). Accordingly, this case is ordered TRANSFERRED to the Georgia Supreme Court.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 27 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martini, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 28, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0195
U.S. MARINE BAYLINER ET AL V. SHIRLEY RING

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98017

02CV2407

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 28 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 31, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0196

THE PROFESSIONAL STANDARDS COMMISSION V. JAMES HOPE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97017

2002CV55012

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 31 2003

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Clerk.

William L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2003**

A03D0197. CITY OF ATLANTA, et al. v. CONNER.

Because an appeal has been taken from the underlying final judgment in this case and that appeal is currently pending in this court, the City of Atlanta's application for discretionary appeal is hereby granted under OCGA § 5-6-35 (j). *Rolleston v. Huie*, 198 Ga. App. 49, 51-52 (4) (400 SE2d 349) (1990). The City shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this court.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 31 2003
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Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 22 2003**

A03D0198. ROY LEE DYKES v. THE STATE

On January 9, 2003, Roy Lee Dykes filed a pro se application seeking review of the superior court's December 9, 2002, denial of his "Motion to Vacate Void Sentence." An application for discretionary appeal must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Since Dykes filed his application 31 days after the entry of the order complained of, the application is untimely, and this Court lacks jurisdiction to consider it. Therefore, the application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 22 2003

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hereto affixed the day and year last above written.*

Will. L. Martin ..., Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 17, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C0972**

ROY LEE DYKES v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0198

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 24 2003

MAR 24 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 31, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0199
T&M TILT-UP, INC., ET AL V. BILLY J. WHEELER

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99017

0ZCV1492X

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 19, 2003

The Court of Appeals passed the following order

Case No. A03D0199

T&M TILT-UP, INC., ET AL V. BILLY J. WHEELER

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

99-017
0ZCV1492X

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 19, 2003*

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Mait; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 30 2003**

A03D0200. CHARLES EMERSON RAINEY v. THOMAS WILLIAM LANGE

On Wednesday, January 8, 2003, Charles Emerson Rainey filed an application for discretionary appeal seeking an appeal of the order, entered December 4, 2002, domesticating a Tennessee court order and granting Thomas William Lange and Vicki Dee Lange grandparents' visitation rights of the minor child born of the former marriage between Rainey and Dawn Renee (Lange) Ormond. On December 13, 2002, a motion for new trial was filed and a motion hearing was held on January 8, 2003. Although Rainey asserts that the trial court denied the motion for new trial, no written order has been entered regarding the motion.

Under OCGA § 5-6-35 (d), when a motion for new trial has been filed, the application shall be filed within 30 days after the entry of the order granting, overruling or otherwise finally disposing of the motion. Because the trial court has not yet entered an order finally disposing of the motion for new trial, this application is not ripe for appellate adjudication and it is ordered DISMISSED without prejudice. Ga. Const. of 1983, Art. VI, Sec. I, Par. IV.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JAN 30 2003

*I certify that the above is a true extract from
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Will. L. Martin, Jr., Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 06, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0201
ANDERSON MERCHANTISERS ET AL V. GWENDOLYN PRICE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94017

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

FEB 06 2003

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Clerk.

Will. L. Mat; R

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 03 2003**

A03D0202. FLOWERS v. FLOWERS, et al.

In this custody action, Jason Boyd Flowers seeks an appeal from a “temporary order” of the superior court entered on November 22, 2002, granting visitation rights to the minor children’s maternal grandparents. Assuming without deciding that the order complained of constitutes a final, appealable order, Flowers nevertheless failed to file a proper application for appeal within 30 days as required under OCGA § 5-6-35 (d).¹ Flowers’ application is therefore dismissed as untimely.

Court of Appeals of the State of Georgia

Clerk’s Office, Atlanta

FEB 03 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

¹Flowers’ original submission, although timely, was not accepted for filing because it did not contain a Certificate of Service as required under Court of Appeals Rule 1 (a).

**Court of Appeals
of the State of Georgia**

ATLANTA, JANUARY 28, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0203

BOBBY RAY YOUNG V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70017

01B25842

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 28 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2003**

A03D0204. JUDITH F. HURT v. NORWEST MORTGAGE, INC.

Judith F. Hurt filed this application for discretionary appeal from the trial court's order denying her Emergency Motion for Injunction and Restraining Order, Motion to Set Aside Consent Order, and Motion to Vacate Consent Order. Ordinarily, this Court would grant this appeal under OCGA § 5-6-35 (j) on the basis that it is directly appealable under OCGA § 5-6-34 (a) (4). However, this case is currently pending on appeal to this Court in appeal A03A0389, and the Clerk of the Superior Court of Rabun County is supplementing that record with documents filed in the case since the appeal was originally docketed in this Court. Because this application is duplicative of appeal A03A0389, it is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martini, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 12 2003**

**A03D0205. THOMAS E. NAVE v. HOMESIDE LENDING, INC. D/B/A C/O
SHAPIRO & SWERTFEGER.**

This application arises from a dispossessory action brought by Homeside Lending, Inc. d/b/a C/O Shapiro & Swertfeger against Thomas E. Nave. Prior to the call of the trial calendar in this case, the parties negotiated a settlement and thereafter agreed to a consent order that was entered by the state court on November 14, 2002.

On December 9, 2002, Nave filed a Motion to Set Aside Consent Order. On December 16, 2002, the state court entered an order denying the motion to set aside. On January 15, 2003, Nave filed an application for discretionary appeal seeking an appeal of the order denying his motion to set aside.

Generally, an application for discretionary appeal shall be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal generally controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d

192) (1994). The underlying subject matter of this discretionary application is to seek the set aside of a consent judgment entered in a dispossessory action. OCGA § 44-7-56, pertaining to dispossessory actions, states that “[a]ny judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7 of Title 5, provided that any such appeal shall be filed within seven days of the date such judgment was entered.”

Because Nave did not file his application for discretionary appeal within seven days of the date of entry of the order denying his motion to set aside, this court lacks appellate jurisdiction over this application and it is ordered DISMISSED. OCGA § 44-7-56.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 12 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martini, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 03, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0206
SOUTHLAND OUTDOORS, INC., D/B/A THE GUN CLUB
AT LAKE OCONEE., ET AL V. PUTNAM COUNTY, GEORGIA
ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95018

2002CV9402

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 03 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Maitland

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 12 2003

A03D0207. LEAMAN v. HOLT.

Carl L. Leaman seeks a discretionary appeal from an order entered December 19, 2002, dismissing his complaint and the loss of consortium claim filed by wife Karin Johnson Leaman. The personal injury claim of Kimberly Lauren Leaman remained pending for trial. On January 15, 2003, the date this application was filed, Leaman filed in the trial court a "Motion to Dismiss the claims of Karin Leaman and Kimberly Leaman with 'prejudice'." In his application Leaman concedes that the purpose of his motion was to render the order entered December 19th the final judgment in the case.

Because it appears that no order has been entered by the trial court granting Leaman's motion to dismiss, this case clearly remains pending in the court below and is not ripe for appellate review. But even if the trial court had granted Leaman's motion before this application was filed, the resulting order would still be ineffective to authorize an appeal from the earlier order entered on December 19th. See *Studdard v. Satcher, Chick, Kapfer, Inc.*, 217 Ga. App. 1, 3 (456 SE2d 71) (1995). The December 19th order was subject to the interlocutory appeal procedure at the time it was filed and no subsequent action by Leaman can change the character of that order for jurisdictional purposes. Leaman's unilateral motion to dismiss with prejudice less than all of the plaintiffs' claims is ineffective because only a *defendant* may properly file such a motion and, in any event, such a motion has no effect on the procedural posture of the case until acted upon by the trial court. OCGA § 9-11-41 (b); *Roberts*

v. *Prakas*, 217 Ga. App. 397 (457 SE2d 688) (1995).¹ We also note that the plaintiffs could have unilaterally filed a voluntary dismissal of the *entire* case, but had they done so the order entered on December 19th would have been rendered moot and there would be no issue remaining for judicial review.

Because we conclude that Leaman is seeking to appeal from a nonfinal order and because he has failed to follow the interlocutory appeal procedure under OCGA § 5-6-34 (b) as required, his application for appeal is hereby *dismissed* as premature. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (1) (408 SE2d 103) (1991).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

FEB 12 2003

I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

C. Jill L. Martin, Clerk.

¹Even if the trial court grants Leaman's motion Leaman would be unable to take an appeal from the resulting final judgment because "[i]t is axiomatic that at the appellate level one cannot complain of a judgment, order, or ruling that his own procedure or conduct procured or aided in causing." (Citations and punctuation omitted.) *Mitchell v. Wyatt*, 192 Ga. App. 127, 129 (1) (384 SE2d 227) (1989).

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0208

PAT TOWNSEND V. ARBY'S RESTAURANT NO. 1747 ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98018

CV022732

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 13 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 13 2003**

A03D0208. TOWNSEND v. ARBY'S RESTAURANT et al.

Upon motion for reconsideration of the application for discretionary appeal, the same is hereby granted. The Court's order of February 13, 2003, denying the application, is vacated and the application is hereby GRANTED. The appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of the Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAR 13 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0209

THERRELL NEWTON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97017

96CR4610

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 12 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Maitie

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 06, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0210
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
V. JOSE NERE BENITEZ

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97018

01C72114

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 06 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Maitland

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 17, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0211
JON MARC JONES, A/K/A JOHN MARC JONES V. PERFORMANCE
FOOD GROUP OF GEORGIA, INC., F/K/A MILTON'S FOODSERVICE, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93018

01VS02375313

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 17 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mart; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0212
LAMONT ROBITZ V. COOPER TIRE & RUBBER COMPANY

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90018

02CV25041

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 13 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 3, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C0888**

LAMONT ROBITZ v. COOPER TIRE & RUBBER COMPANY

Clerk, Supreme Court of Georgia

Case No. A03D0212

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 06 2003

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0213
JUSTIN SAUNDERS V. MR. TIM BURGESS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94018

2002CV57386

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 12 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Mat; R

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 31 2003

A03D0214. CHARLES THOMAS WOOD v. SHIRLEY JEAN PHILLIPS

Charles Thomas Wood, pro se, filed this discretionary application from the trial court's order finding him in contempt for failure to comply with the child support provisions of the parties' settlement agreement, which was incorporated into the parties' final divorce decree. A contempt proceeding based on the failure to comply with the child support provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976). Accordingly, this application is hereby TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

....., Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 04, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0215
ROBERT DOWSE ET AL V. SOUTHERN GUARANTY INSURANCE
COMPANY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70018

CV01450BA

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 04 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Maitland

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0216

HENRY RAYFORD V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71018

94R245

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 12 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 17 2003**

A03D0217. KING v. THE STATE.

Gregory S. King seeks an appeal from a probation revocation order entered on December 3, 2002. King's application was not filed with this court until January 24, 2003.¹ Because King's submission was not filed within 30 days as required under OCGA § 5-6-35 (d), the application is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 17 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martini, Clerk.

¹King's original submission, although timely received, could not be accepted for filing because it did not contain a sufficient pauper's affidavit as required under OCGA § 5-6-4, nor did it include a Certificate of Service as required under Court of Appeals Rule 1 (a).

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0218
DEANA RENEE PRITCHETT V. DANNY RAY PRITCHETT

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96019

01CV164C

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 13 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0219
LARRY O. GLASS ET AL V. BARNESVILLE-LAMAR COUNTY
INDUSTRIAL DEVELOPMENT AUTHORITY, A PUBLIC CORPORATION,
ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98019

02B255W

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 19, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0220

DEBBIE C. THORNTON V. MANPOWER INTERNATIONAL, INC., ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97019

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 19 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Marti; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 20, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0221
JOE L. WALKER, JR. V. MCDONALD'S ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93019

02CV10732

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 20 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 20 2003**

A03D0222. WILSON, JR. v. THE STATE.

Robert Edward Wilson, Jr., seeks an “out-of-time” discretionary appeal from an order entered in August 2002 denying his motion for out-of-time appeal in a criminal case. Because this court has no jurisdiction to consider an untimely application for discretionary appeal, Wilson’s application is hereby *dismissed*. OCGA § 5-6-35 (d); *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 337) (2000).

*Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta* **FEB 20 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martini _____, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 24, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0223

EARL DAVIS V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91019

CR981818FR

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 24 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mart; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 26, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0224
DELTA AIR LINES ET AL V. RICHARD CAHILL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90019

2002CV61866

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 26 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 19, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0225
ELIZABETH WATKINS V. REGINALD WATKINS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94019

2001CV34600

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 19 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 03, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0226
ATLANTA CITY BOARD OF EDUCATION V. ROBERT ROBBINS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92019

2001CV42057

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAR 03 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 24 2003

A03D0227. GOODMAN v. CURRIE, D.A.

Inmate Gene Nelson Goodman filed an application for discretionary appeal from an order denying his petition to proceed in forma pauperis under OCGA § 9-15-2 (d). Because Goodman's underlying complaint is a petition for relief by mandamus, his application is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (5); see, e.g., *Daker v. Ray*, 275 Ga. 205 (2) (563 SE2d 429) (2002); *Chandler v. Davis*, 269 Ga. 727 (504 SE2d 440) (1998); *Howard v. Sharpe*, 266 Ga. 771 (470 SE2d 678) (1996).¹

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 24 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

William L. Martin, Jr. Clerk.

¹Because we find that jurisdiction lies in the Supreme Court, we do not reach the issue of whether this is a non-final order subject to the interlocutory appeal procedure. See OCGA § 42-12-5 (b) (2).

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 24, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0228
HARRY W. DAVIS ET AL V. T. JERRY JACKSON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71019

2001CV38325

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 24 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; R

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 05 2003**

A03D0229. WILLIAM DAVIS v. THE STATE

William Davis filed this discretionary application from the superior court's order granting his petition for mandamus, but denying his motion to set aside void judgment. Mandamus is an extraordinary remedy and, therefore, this appeal lies within the appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (5). Therefore, the application is hereby TRANSFERRED to that Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 05 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, FEBRUARY 27, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0230

CHARLES EMERSON RAINEY V. DAWN RENEE LANGE ORMOND ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

96020

02CV00266

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 27 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 10 2003**

A03D0231. DIXON R. HEAD, JR. v. WACHOVIA BANK, N. A.

Dixon R. Head, Jr. filed this discretionary application seeking review of an order, or some portion of the order, denying his motion to set aside a final judgment pursuant to OCGA § 9-11-60 (d) (1) or, in the alternative, to correct clerical mistakes and errors pursuant to OCGA § 9-11-60 (g). Although denials of motions to set aside filed pursuant to OCGA § 9-11-60 (d) require the discretionary appeal procedure, orders denying motions to set aside filed pursuant to OCGA § 9-11-60 (g) are directly appealable. See *Leventhal v. Mosely*, 264 Ga. 891 (453 SE2d 455) (1995). In this instance the application states that a notice of appeal initiating a direct appeal from the order sought to be appeal has been filed. Under OCGA § 5-6-34 (d), the denial of the § 9-11-60 (d) motion to set aside may be reviewed in the pending direct appeal along with the denial of the § 9-11-60 (g) motion to set aside. Due to the pending direct appeal, OCGA § 5-6-35 (j) is inapplicable and the present application is redundant. Therefore, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 10 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Mart; JR....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 03 2003**

A03D0232. GEORGIA TRANSMISSION CORPORATION v. TROUTDALE CORPORATION, et al.

A03D0235. GEORGIA TRANSMISSION CORPORATION v. DIXON, et al.

A03D0236. GEORGIA TRANSMISSION CORPORATION v. PERKINS, et al.

The above styled applications filed by Georgia Transmission Corporation are from separate orders filed in related cases, each granting the respective defendant's motion to stay the start of a construction project "until the Court rules on the findings of the Special Master, if exceptions are taken." These applications appear to have been filed out of an abundance of caution in light of OCGA § 5-6-35 (a) (9), which designates "[a]ppeals from orders granting or denying temporary restraining orders" as subject to the discretionary appeal procedure. OCGA § 5-6-35 (b) et seq. Because the trial court directed that the orders remain in effect until after it rules on the findings of the Special Master, however, the orders complained of are in substance interlocutory injunctions and not temporary restraining orders. See *Penland v. Corlew*, 248 Ga. App. 564, 566 (1) at n. 3 (547 SE2d 306) (2001); *Mar-Pak Mich., Inc. v. Pointer*, 226 Ga. 189 (173 SE2d 206) (1970). Because applicant has already filed timely notices of appeal in each of these cases, all three applications are hereby *dismissed* as superfluous.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 03 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Will. L. Martineau Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 18 2003**

A03D0233. MITCHELL v. MITCHELL

Anthony J. Mitchell seeks an appeal from an order holding him in contempt for failing to comply with the child support provisions of a divorce decree. The order is ancillary to the prior divorce decree and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art VI, Sec. VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1978); see also *Brown v. Brown*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985). Therefore, this application is hereby TRANSFERRED to the Supreme Court for disposition.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 18 2003
*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Maitland, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 26 2003**

A03D0234. MARY HELEN LOVE v. JAMES EDWARD LOVE

This case involves the minor child of Mary Helen Love and James Edward Love. Mary Helen Love is currently in the custody of the Georgia Department of Corrections. On August 20, 2002, Ethel P. Bennett, the child's aunt, applied for Temporary Letters of Guardianship of the Person of the minor child in the Probate Court of Gwinnett County. James Edward Love filed an objection to the Petition. In a September 20, 2002 order, the court denied the aunt's petition for temporary guardianship based on the objection of the natural guardian. A copy of this order is not included with the application. On October 7, 2002, Mary Helen Love filed a motion for reconsideration of the trial court's September 20, 2002 order, requesting that the aunt's petition for guardianship be granted. The probate court denied the motion on October 8, 2002.

Mary Helen Love alleges she filed appeals to the superior court from this order. She alleges that the superior court returned at least one of these appeals to the probate court, but that order is not included with the application materials.

James Edward Love then filed a complaint for modification of custody in the Superior Court of Gwinnett County, seeking sole physical custody of the child, which the trial court granted on November 14, 2002.

Mary Helen Love, pro se, then filed this application for discretionary appeal in the Supreme Court solely from the probate court's September 20, 2002 order denying the aunt's petition for temporary guardianship. The application was docketed in the Supreme Court on January 10, 2003. On February 10, 2003, the Supreme Court transferred the case to this Court for disposition.

The application, however, is untimely. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Love filed her application in the Supreme Court more than thirty days after entry of the September 20, 2002 order she seeks to appeal, it is untimely. We note that even if Love were appealing the superior court's November 14, 2002 order granting physical custody of the child to James Edward Love, or the order returning her appeal from the superior court to the probate court, the application would still be untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 26 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 03 2003**

A03D0232. GEORGIA TRANSMISSION CORPORATION v. TROUTDALE CORPORATION, et al.

A03D0235. GEORGIA TRANSMISSION CORPORATION v. DIXON, et al.

A03D0236. GEORGIA TRANSMISSION CORPORATION v. PERKINS, et al.

The above styled applications filed by Georgia Transmission Corporation are from separate orders filed in related cases, each granting the respective defendant's motion to stay the start of a construction project "until the Court rules on the findings of the Special Master, if exceptions are taken." These applications appear to have been filed out of an abundance of caution in light of OCGA § 5-6-35 (a) (9), which designates "[a]ppeals from orders granting or denying temporary restraining orders" as subject to the discretionary appeal procedure. OCGA § 5-6-35 (b) et seq. Because the trial court directed that the orders remain in effect until after it rules on the findings of the Special Master, however, the orders complained of are in substance interlocutory injunctions and not temporary restraining orders. See *Penland v. Corlew*, 248 Ga. App. 564, 566 (1) at n. 3 (547 SE2d 306) (2001); *Mar-Pak Mich., Inc. v. Pointer*, 226 Ga. 189 (173 SE2d 206) (1970). Because applicant has already filed timely notices of appeal in each of these cases, all three applications are hereby *dismissed* as superfluous.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 03 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Will. L. Martin, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 03 2003**

A03D0232. GEORGIA TRANSMISSION CORPORATION v. TROUTDALE CORPORATION, et al.

A03D0235. GEORGIA TRANSMISSION CORPORATION v. DIXON, et al.

A03D0236. GEORGIA TRANSMISSION CORPORATION v. PERKINS, et al.

The above styled applications filed by Georgia Transmission Corporation are from separate orders filed in related cases, each granting the respective defendant's motion to stay the start of a construction project "until the Court rules on the findings of the Special Master, if exceptions are taken." These applications appear to have been filed out of an abundance of caution in light of OCGA § 5-6-35 (a) (9), which designates "[a]ppeals from orders granting or denying temporary restraining orders" as subject to the discretionary appeal procedure. OCGA § 5-6-35 (b) et seq. Because the trial court directed that the orders remain in effect until after it rules on the findings of the Special Master, however, the orders complained of are in substance interlocutory injunctions and not temporary restraining orders. See *Penland v. Corlew*, 248 Ga. App. 564, 566 (1) at n. 3 (547 SE2d 306) (2001); *Mar-Pak Mich., Inc. v. Pointer*, 226 Ga. 189 (173 SE2d 206) (1970). Because applicant has already filed timely notices of appeal in each of these cases, all three applications are hereby *dismissed* as superfluous.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 03 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Matz; JR , Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 10, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0237
EVER LEE NELSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91020

2000R493

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 10 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 26 2003

A03D0238. ODUM REED v. THE STATE.

Odum Reed seeks an appeal from an order denying his motion to reconsider sentence entered January 11, 2003. Reed's application was not filed with this court until February 11, 2003.

No application for discretionary appeal may be considered unless it is timely filed under OCGA § 5-6-35 (d). Because Reed's application was not filed within 30 days of the entry of the order complained of, the application is hereby ordered DISMISSED for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 26 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

William L. Martin, Jr. Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 12 2003**

A03D0239. KITCHEN v. THE STATE.

The above styled application was originally docketed as Application No. A03D0148. That application was dismissed as untimely by order issued on December 20, 2002. Kitchen's attorney thereafter petitioned the trial court to vacate and re-enter the order denying his motion for new trial. The trial court obliged and Kitchen has essentially refiled his original application for discretionary appeal. We conclude, however, that the previous order dismissing Kitchen's application for appeal from a final judgment was an adjudication on the merits for res judicata purposes. See *Henderson v. Justice*, 237 Ga. App. 284, 286-287 (1) (514 SE2d 713) (1999) (denial of application for appeal from final judgment constitutes adjudication for res judicata purposes); *Mitchell v. Oliver*, 254 Ga. 112 (327 SE2d 216) (1985) ("sanction of res judicata . . . attaches to a final judgment from which a procedurally defective appeal is taken"); *Hardwick, Cook & Company v. Peachtree, LTD*, 184 Ga. App. 822, 823 (1) (363 SE2d 31) (1987) (*Mitchell* analysis applies when appeal from final judgment is involuntarily dismissed by the appellate court). Kitchen's second application is therefore *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 12 2003**

I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

C. Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 03, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0240
ROBERT MOORE V. GLADE MARINA, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92020

2002A39661

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 03 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Matier

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 21 2003**

A03D0241. RELIABLE SUPPLY COMPANY et al. v. JERRY LEE

Reliable Supply Company and its workers' compensation insurer, Zurich, filed an application for discretionary appeal in this Court from the superior court's January 14, 2003 order affirming the award of the State Board of Workers' Compensation Appellate Division. The application was docketed in this Court on February 14, 2003, thirty-one days after the superior court's order was entered. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because the applicants filed their application in this Court more than thirty days after entry of the order they seek to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 21 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Mait; JR , Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 04, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0242
DONALD WILLIAMS V. ACTION TEMPORARY SERVICES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71020

021451

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 04 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Maitland

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 19 2003**

A03D0243. BELLSOUTH CORPORATION v. GARY D. FORSEE

Plaintiff BellSouth Corporation filed this action seeking enforcement of an employment contract with defendant Gary D. Forsee. The written agreement between the parties covers several aspects of defendant's employment with plaintiff, including a covenant not to compete and restrictions on the use of confidential information.

Plaintiff's verified complaint alleged that defendant had announced his intention to resign his current position and accept employment as Chairman of the Board and Chief Executive Officer for Sprint Corporation, one of plaintiff's competitors. Plaintiff alleges that defendant should be barred from accepting employment with Sprint Corporation as he would inevitably disclose plaintiff's confidential information in breach of the employment contract and fiduciary duties when making business decisions and judgments on behalf of his new employer. The complaint sought a temporary restraining order to maintain the status quo.

Prior to the filing of this action, plaintiff sought and obtained a temporary restraining order from a presiding judge. After the temporary restraining order and documents initiating this action were filed, defendant moved to dissolve the temporary restraining order. A hearing was held at which both parties were represented by counsel and the superior court subsequently entered the order which plaintiff seeks permission to appeal via this application.

The order sought to be appealed is styled "ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER." However, this style is misleading since the superior court entirely dissolved the temporary restraining order entered by the presiding judge because plaintiff had not strictly complied with the requirements of OCGA § 9-11-65.

The superior court then purported to re-enter and modify the temporary restraining order. However, this was done with the benefit of the adversarial hearing at which both parties were represented, so that based on the nature of the proceeding and the relief granted, the limitations on defendant's conduct ordered by the superior court after the hearing was in substance an interlocutory injunction rather than an approval of any part of the temporary restraining order which had been obtained by plaintiff ex parte. See *Glynn County Bd. of Tax Assessors v. Haller*, 273 Ga. 649 (2) (543 SE2d 699) (2001); *Dolinger v. Driver*, 269 Ga. 141, 142 (1) (498 SE2d 252) (1998).

We particularly note that the interlocutory injunction, entered by the superior court, prohibits defendant accepting employment with Sprint Corporation pending arbitration concerning the non-disclosure provision only of the employment contract. Furthermore, the parties are ordered to schedule and complete arbitration of the specified issue within 30 days from the date of the superior court order.

Both the application and an accompanying motion for emergency relief complain that the 30-day time limit for arbitration of the designated issue has improperly invaded the exclusive province of the arbitrator, interfered with scheduling and procedural issues that are committed to the exclusive province of the arbitrator, and has imposed a time frame for the arbitration process which fails to consider any analysis of the discovery needed to resolve the issues. Since these

issues challenge the propriety of the equitable relief granted, this is an equity case reserved to the Supreme Court. Whether an action is an equity case for the purposes of determining jurisdiction on appeal depends on the issue raised and not upon how the case is styled or upon the kinds of relief which may be sought by the complaint. Equity cases are those in which a substantive issue on appeal involves the legality or propriety of equitable relief in the superior court. The issues raised in this case include those that address the legality and propriety of the equitable relief crafted by the superior court. See *Saxton v. Coastal Dialysis &c., Inc.*, 267 Ga. 177, 178 (476 SE2d 587) (1996); *Beauchamp v. Knight*, 261 Ga. 608, 609 (2) (409 SE2d 208) (1991).

Therefore, this application along with the accompanying motion for emergency relief are hereby TRANSFERRED to the Supreme Court of Georgia for appropriate disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 19 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

C. Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0244
PERIMETER OIL COMPANY V. THT, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96021

2001CV38712

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 13 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; R

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: April 2, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1055**

PERIMETER OIL COMPANY v. THT, INC.

Clerk, Supreme Court of Georgia

Case No. A03D0244

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 03 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 10, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0245

C.R. ENGLAND, INC., ET AL V. AMY N. HOWELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98021

2003CV63567

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 10 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; R

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 28, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1026**

C.R. ENGLAND, INC., et al. v. AMY N. HOWELL

Clerk, Supreme Court of Georgia

Case No. A03D0245

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 28 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0246
FORSYTH COUNTY, GEORGIA V. HAROLD F. REHEIS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93021

02CV1464

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAR 12 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 11, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0247
RODNEY W. ROSCOE V. FREEMAN INSULATION CO. ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99021

0211036118

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 11 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 31, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1076**

RODNEY W. ROSCOE v. FREEMAN INSULATION COMPANY

Clerk, Supreme Court of Georgia

Case No. A03D0247

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 04 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 17 2003**

**A03D0248. RONALD S. LEVENTHAL ET AL v. CUMBERLAND
DEVELOPMENT.**

Ronald S. Leventhal, pro se, individually and as a director of Cumberland Creek Properties, Inc. filed this discretionary application seeking review of superior court's "CONSENT ORDER." Cumberland Creek Properties, Inc. has filed a purported joinder in the application for discretionary appeal.

Respondent Cumberland Development, LLC objects to the adoption and joinder in the discretionary application by Cumberland Creek Properties, Inc. maintaining that various provisions of OCGA §§ 5-6-34 (b) and 5-6-35 are violated. However, under our view of this application these issues need not be addressed.

Apparently, the discretionary application was filed as a precaution to preserve the opportunity for appeal in the event the "CONSENT ORDER" was determined to be a temporary restraining order subject to OCGA § 5-6-35 (a) (9). Leventhal and Cumberland Creek Properties, Inc. have filed timely notices of appeal which is the correct avenue of appeal pursuant to OCGA § 5-6-34 (a) (4) since the order sought to be appealed is in fact an injunction and not a TRO, as shown by the permanent

nature of the relief ordered by the superior court. See *Anderson v. Dowd*, 268 Ga. 146 (485 SE2d 764) (1997).

Due to the notices of appeal filed in the superior court, OCGA § 5-6-35 (j) is inapplicable. Therefore, this application is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 17 2003**

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Will. L. Martin, Jr. _____, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 20, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0249

SCHWERMAN TRUCKING COMPANY ET AL V. RICHARD A. ROLLINS, SR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90021

2002RCCV909

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 20 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Maitland

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 11, 2003

The Court of Appeals passed the following order

Case No. A03D0249

SCHWERMEN TRUCKING COMPANY ET AL V. RICHARD A. ROLLINS, SR.

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

90-021
2002RCCV909

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 11, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Maitland

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: April 29, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1209**

SCHWERMAN TRUCKING COMPANY et al. v. RICHARD A. ROLLINS, Sr.

Clerk, Supreme Court of Georgia

Case No. A03D0249

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 30 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 26 2003**

A03D0250. Hang v. Crilley

Scott D. Hang seeks an appeal from an order holding him in contempt for failing to comply with the child support provisions of a divorce decree. The order is ancillary to the prior divorce decree and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const of 1983, Art. VI, Sec. VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1978); see also *Brown v. Brown*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985). Accordingly, this application is TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 26 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 20 2003**

A03D0251. WATERWISE FACILITIES I, INC. v. MILLER, RAY HOUSER

Waterwise Facilities I, Inc. filed this discretionary application from the state court's January 27, 2003 order denying its motion to set aside judgment. Although the applicant mailed its application by regular mail on February 26, 2003, the application was not docketed in this Court until February 27, 2003, thirty-one days after the superior court's order was entered. An application for discretionary appeal must be filed or sent by registered or certified mail within 30 days of the order appealed. OCGA § 5-6-35 (d); Court of Appeals Rules 4; 32 (b). Because the applicant filed its application in this Court more than thirty days after entry of the order it seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is hereby ordered DISMISSED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAR 20 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 19, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0252
PATRICK H. CASEY V. OTIS THREATT, ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70021

02C33051

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 19 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 24 2003**

A03D0253. STEVEN BERNE v. DAVID S. WALKER.

David S. Walker, an attorney, filed this action against Dorothy Williams, a former client, and against Steven Berne, an attorney who succeeded Walker in the representation of Williams in a federal lawsuit. Walker's claim against Williams is based on unpaid attorney fees and expenses while his claim against Berne seeks enforcement of an attorney's lien on the proceeds of the federal lawsuit that was eventually settled while Berne represented Williams.

Via this application, Berne seeks appellate review pursuant to OCGA § 5-6-35 (a) (6) of a state court order granting summary judgment in favor of Walker. The summary judgment order awards the principal amount of \$3,772.89, pre-judgment interest of \$770.29, and post-judgment interest against Williams and against Berne.

While the amount of the state court award is less than \$10,000.00, the action against Berne on a lien is not an action for damages necessitating a discretionary appeal under OCGA § 5-6-35 (a) (6). *Kelly v. Pierce Roofing Company, Inc.*, 220 Ga. App. 391 (469 SE2d 469) (1996). Because that portion of the order complained of is the final disposition of a matter not enumerated under OCGA § 5-6-35 (a), Berne's application is GRANTED as required under OCGA § 5-6-35 (j).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 24 2003**

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

C. Jill L. Martin; JR, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 27, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0254

LAWRENCE BIRCOLL ET AL V. HERMAN R. ROSENTHAL ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95022

01CV101424

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 27 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 10 2003

A03D0255. Ramos v. Perera

Robert Ramos filed this application for discretionary appeal seeking review of the trial court's order which domesticated his foreign divorce decree and modified the amount of child support awarded in the original decree of divorce. On December 6, 1994, the parties were granted a judgment of divorce by the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida. Ramos contends that because he has never resided in Georgia, the trial court lacked personal jurisdiction over him to modify the child support award in the original decree of divorce. *Riersgard v. Morton*, 267 Ga. 451 (479 SE2d 748) (1997). However, because the sole issue in this case is whether the trial court had personal jurisdiction over Ramos to modify the original divorce decree, it is ancillary to the prior divorce decree and within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1978); see also *Brown v. Brown*, 266 Ga. 890 (472 SE2d 65) (1996). Accordingly, this application is TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

I certify that the above is a true and correct extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

Will. L. Matz, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 20, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0256
WILLIAM STAAB V. MICHELLE STAAB

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98022

02CV1206

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 20 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Marti, III

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 18, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0257

GERALD WALKER V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93022

Z59482

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 18 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 26, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0258
ISMOQUE JEAN-LOUIS V. G.C. HOUSING, INC., D/B/A
G.C. HARVESTING ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99022

02CV756

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 26 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 27, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0259
WILLIAM W. GARDNER V. HERMAN R. ROSENTHAL, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95023

01CV101424

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 27 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Matig

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0260
KENNETH CRANE V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91022

009129218

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 08 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0261
C. BROWN TRUCKING, INC. V. HAROLD L. RUSHING

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90022

NO NUMBER

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 25 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martine

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 28, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0262

ANDRE P. BARBER V. GREATER ATLANTA BROKERAGE SOLUTIONS, LLC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94022

01CV30518

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 28 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 24, 2003

The Court of Appeals passed the following order

Case No. A03D0262

ANDRE P. BARBER V. GREATER ATLANTA BROKERAGE SOLUTIONS, LLC.

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

94-022
01CV30518

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 24, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 26, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0263
MITSUBISHI MOTORS CREDIT OF AMERICA, INC., V. ROBINSON
& STEPHENS, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92022

2002CV56098 2002CV56149

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 26 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 0 8 2003**

A03D0264. DEKALB COUNTY, ET AL. v. ERNEST ADAMS, ET AL.

DeKalb County seeks review of a post-judgment order that it pay attorney fees pursuant to OCGA § 9-15-14. The underlying order finding that DeKalb County had failed to comply with the terms of a November 21, 2001 Contempt Order regarding medical treatment at the DeKalb County jail is on appeal as Case No. A03A0954.

Under *Rolleston v. Huie*, 198 Ga. App. 49 (400 SE2d 349) (1990), a post-judgment award of attorney fees may be directly appealed without regard to the discretionary appeal procedures, where there is a pending "direct appeal" taken from the underlying judgment. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. However, in this case the applicant has filed a timely notice of appeal so that the post-judgment award of attorneys fees is on appeal as Case No. A03A1557. Thus, OCGA § 5-6-35 (j) does not apply and this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 0 8 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martin, Jr. Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 10, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0265

WILLIS B. BODENHAMER V. LINDA D. BODENHAMER WOOTEN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71022

01CV10842

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

APR 10 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 20, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0266
JONATHAN WESLEY SPANN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92023

020020

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAR 20 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mart; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 10 2003**

A03D0267. USA Payday Cash Advance Centers, et al. v. Oxendine

Applicants in this declaratory judgment case have filed this application for discretionary appeal from the superior court's grant of summary judgment to John W. Oxendine, individually and in his official capacity as Industrial Loan Commissioner, holding Applicants could not pursue a declaratory judgment action as to whether the Commissioner had jurisdiction to enforce the Georgia Industrial Loan Act, OCGA § 7-3-1 (the "Act"), against an agent of a federally chartered bank. Applicants have also filed a timely notice of direct appeal contending the trial court's order did not involve a superior court review of an administrative decision. OCGA § 5-6-35 (a) (1); See *King v. City of Bainbridge*, 272 Ga. 427, 428 (1) (531 SE2d 350) (2000). We agree. The question presented for review is whether Applicants are subject to the jurisdiction of the Act and whether they must first exhaust administrative remedies established under the Act. Thus, this is not an appeal from a decision of a superior court reviewing a decision of a state or local administrative agency, or a lower court by certiorari or de novo proceeding as contemplated by OCGA § 5-6-35 (a) (1). Because we conclude that the applicants' direct appeal is valid, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 10 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0268
DONNA MARIE., SMITH V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98023

980988

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

APR 08 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0269
SOUTH GEORGIA MEDICAL CENTER V. ADDIE HARRIS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97023

2002CV3028

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

APR 08 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 11, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0270
CORLISIA SIMS V. CHARLES TANNER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93023

2002CV62109

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 11 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, MARCH 26, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0271

WADE JENKINS V. GEIGER INTERNATIONAL ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99023

2002CV57585

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 26 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: April 11, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1125**

WADE JENKINS v. GEIGER INTERNATIONAL et al.

Clerk, Supreme Court of Georgia

Case No. A03D0271

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 14 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 14 2003**

A03D0272. BANK WEST, INC., et al. v. JOHN W. OXENDINE

The applicants have filed a motion to file documents under seal, which is GRANTED. Respondent's motion to unseal the record is DENIED. The applicants have filed this application for discretionary appeal from the superior court's order granting summary judgment to John W. Oxendine, in his official capacity as Industrial Loan Commissioner, holding, inter alia, that the applicants could not pursue a declaratory judgment action to determine whether the Commissioner had jurisdiction to enforce the Georgia Industrial Loan Act, OCGA § 7-3-1 et seq., against an agent of a federally chartered bank. This is not an appeal from a decision of a superior court reviewing a decision of a state or local administrative agency, or a lower court by certiorari or de novo proceedings, as contemplated by OCGA § 5-6-35 (a) (1), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. In this case, however, the applicants

have filed a timely notice of appeal. Thus, OCGA § 5-6-35 (j) does not apply. This application is thus DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 14 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

William L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 14, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0273

LENORRIS JOHNSON, AS ADMINISTRATOR OF THE ESTATE OF ARTHUR
JAMES JOHNSON, SR., DECEASED V. VICKIE D. BROUGHTON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90023

98CV041727

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 14 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0274

ENTERPRISE LEASING COMPANY OF GEORGIA V. HENRY JENKINS ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94023

02G2938

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 14, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0275
EUGENE GRANT V. KEITH JENKINS ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70023
0000600

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 14 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martine

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: April 30, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1221**

EUGENE GRANT v. KEITH JENKINS et al.

Clerk, Supreme Court of Georgia

Case No. A03D0275

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 02 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 18, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0276

MS. SOMERS V. MR. CHAD MCGEE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71023

01CV0761 01CV1762

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 18 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0277

INTERNATIONAL PAPER COMPANY, ET AL V. FELICIA M. DAVIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95024

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martie

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 13, 2003

The Court of Appeals passed the following order

Case No. A03D0277

INTERNATIONAL PAPER COMPANY, ET AL V. FELICIA M. DAVIS

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

95-024
NONE

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 13, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martini

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 09, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0278

NICHOLS & ASSOCIATES, INC. V. SOUTHEASTERN POLE SALES, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96024

2001G2377

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 09 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: April 29, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1233**

NICHOLS & ASSOCIATES, INC. v. SOUTHEASTERN POLE SALES, INC.

Clerk, Supreme Court of Georgia

Case No. A03D0278

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 05 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 17, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0279
MIKE REDFORD V. OLIVER C. NWABUDE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98024

03A015520

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 17 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Jill L. Mait; R

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0280
JAMES TERRY STINSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97024

98B21057

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 25 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 14, 2003

The Court of Appeals passed the following order

Case No. A03D0280

JAMES TERRY STINSON V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

97-024
98B21057

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 14, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: May 19, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1309**

JAMES TERRY STINSON v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0280

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 21 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0281
SENECA TRAVIS V. GARY ARTHUR GOLDMAN

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93024

2002CV1690I

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
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Clerk.

Will. L. Martineau

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 16 2003**

A03D0282. WILLIAM DAVIS v. THE STATE

In 1994, William Davis was convicted in the Bibb County Superior Court of armed robbery and sentenced. Following the denial of his motion for new trial, Davis was granted an out-of-time appeal. On March 25, 1998, this Court affirmed his conviction in an unreported opinion, A98A0032, that adjudicated Davis's challenge to the sufficiency of the evidence.

Subsequently, Davis filed a motion to set aside void judgment asserting that the state failed to prove the essential element of venue. On July 25, 2002, the trial court entered an order denying Davis's motion to set aside void judgment. Davis then filed an application for discretionary appeal from this order, which was docketed in this Court as discretionary application A03D0009. The application, however, did not contain a stamped "filed" copy of the order sought to be appealed as required by Court of Appeals Rule 31 (d). Accordingly, this Court dismissed this application on September 9, 2002.

Davis filed another "Motion to Set Aside Void Judgment" in the trial court again alleging the state failed to prove the essential element of venue. The trial court, however, again denied the motion. Davis has again filed a discretionary application from this order. A review of the record reveals that Davis is attempting to relitigate issues already decided against him. Davis "is not entitled to another bite at the apple." *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001); see also *Daniels v.*

State, 244 Ga. App. 522 (536 SE2d 206) (2000). Davis's application is accordingly hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 16 2003**

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Will. L. Martin, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 17, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0283

ROBERT RAMOS V. ADYS PERERA, A/K/A RAMOS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91024

02CV46467

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 17 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Matz, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 24 2003**

A03D0284. LOCKHEED MARTIN CORPORATION v. PEARLENE BURKE.

Pearlene Burke filed a claim, but did not request a hearing, with the State Board of Workers' Compensation. Employer Lockheed Martin Corporation controverted the claim and filed a motion to compel requesting the Board to enter an order directing the employee to sign a Form WC-207, a medical release, which would allow the employer to obtain employee's past medical records. The motion to compel was denied by the Administrative Law Judge, attorneys fees were awarded to Burke, and that decision adopted by the Appellate Division. Upon appeal to the superior court, the decision of the Appellate Division was affirmed. The employer then filed this discretionary application with this Court.

The appeal, however, was not properly before the superior court. Only final awards or final decisions may be appealed to the superior court. OCGA § 34-9-105 (b). The superior court should have declined to review the employer's appeal because such an interlocutory appeal is unauthorized under the Workers' Compensation Act. The Workers' Compensation Act makes no provision for an appeal to the superior

court from a decision by the Appellate Division other than one which grants or denies compensation. The superior court thus was without jurisdiction and is directed to dismiss the appeal as premature. See *Cartwright v. Midtown Hosp.*, 243 Ga. App. 828 (534 SE2d 504) (2000); *GAC, MFG/Processing v. Busbin*, 233 Ga. App. 406 (504 SE2d 270) (1998); *Garner v. Owens-Illinois Glass Container*, 134 Ga. App. 917, 920 (216 SE2d 709) (1975). This discretionary application is thus not properly before this Court and is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

APR 24 2000

I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

....., Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 18, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0285
CITY OF ALBANY ET AL V. DEBORAH A. GREEN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94024

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

APR 18-2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 16, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0286
BAKER IMPORTS ET AL V. JOHN FIELDS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92024

2003CV64578

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 16 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0287

KEVIN GLENN YOUNTS V. KRISTI MARIE MATHIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70024

02A89122

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
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Clerk.

Will. L. Mathis, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 29 2003**

A03D0288. DONNA MARIE., SMITH v. THE STATE.

Donna Marie., Smith, acting pro se, has filed an application seeking a discretionary appeal of the order, entered March 3, 2003, denying her motion for appointment of counsel.

The order sought to be appealed states that Smith “was issued a probated sentence by the Court on October 15, 1998.” At some point in time, not shown by the documents supporting this application, a petition for revocation of Smith’s probation was filed asserting that Smith had violated her probation by being in arrears in paying court-ordered money, failing to make payment toward her fine or restitution since April 2, 2002, and failing to provide proof of suitable employment.

On December 23, 2002, while the probation revocation proceeding was pending, Smith filed a motion for appointment of counsel to represent her “on appeal” and “at an alleged [probation revocation] hearing to be held on or about January 7, 2003.” The motion also stated that “[t]his is a case involving an alleged felony conviction.” Thus, the motion is ambiguous as to whether it was a request only for appointment of counsel to represent Smith both at a hearing and on appeal of a probation revocation procedure or whether Smith was seeking the appointment of counsel to represent her at a probation revocation hearing and also on appeal of a separate “felony conviction.”

On January 7, 2003, the probation revocation hearing was held. At this hearing the trial court orally denied Smith’s motion for appointment of counsel. Smith ultimately was directed to go out and obtain some form of employment, and the hearing was continued until February 4, 2003 to give her an opportunity to do so.

On February 14, 2003, Smith filed a petition for writ of prohibition in civil case number 03-1-1286-05. A copy of this petition is not included as a supporting document in this application. On March 3, 2003, the trial court entered an interlocutory order denying Smith’s motion for appointment of counsel. Smith seeks a discretionary appeal of this order.

Apparently, the probation revocation proceeding was subsequently recommenced on March 4, 2003. Although Smith has attached no probation revocation order in support of her application, she asserts that she was arrested and incarcerated on March 4, 2003.

The order sought to be appealed is not a final order under OCGA § 5-6-34 (a) so far as it denies Smith's motion for appointment of counsel at the pending probation revocation hearing or at any future appeal of that proceeding. Because the order is interlocutory, Smith was required to obtain a timely certificate of immediate review and thereafter file a timely application for interlocutory review under OCGA § 5-6-34 (b). Because Smith has failed to comply with the interlocutory review procedure under OCGA § 5-6-34 (b), this Court is without jurisdiction over this application and it is ordered DISMISSED.

To the extent that this application could also be construed as seeking a discretionary appeal of the order, entered March 3, 2003, on the grounds that the trial court erroneously denied a motion for the appointment of counsel to represent Smith on the appeal of a separate "felony conviction," the application is ordered DENIED. Ga. Const. of 1983, Art. VI, Sec. I, Par. IV. Further, Smith has failed to show why this discretionary application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 29 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0289

MARY BILLUPS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95025

01CR07053 01CR00613

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2003

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hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 24 2003**

A03D0290. COLLIER v. DeKALB MEDICAL CENTER.

Jerry Larry Collier filed an application for discretionary appeal from an order dismissing his medical malpractice complaint for failure to file an expert affidavit as required under OCGA § 9-11-9.1. Because the order complained of is not subject to the discretionary appeal procedure and because Collier has already filed a timely notice of appeal from the same order, Collier's application is hereby *dismissed* as superfluous. *Brown v. Associates Financial Services Corp.*, 255 Ga. 457, 458 (339 SE2d 590) (1986).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 24 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

William L. Mattingly, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0291
HAROLD F. REHEIS, DIRECTOR, ENVIRONMENTAL PROTECTION
DIVISION V. TERENCE D. HUGHEY, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98025

02CV2770C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 25 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0292
GWINNETT COUNTY V. LAKE LANIER ASSOCIATION, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98026

02CV2770C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2003

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Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 25, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0293
ORLANDO LATHON V. COBB COUNTY DEPARTMENT OF
TRANSPORTATION ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97025

0211019542

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 25 2003**

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the minutes of the Court of Appeals of Georgia*

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Clerk.

C. Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0294

GEORGIA DEPARTMENT OF COMMUNITY HEALTH V.
SATILLA HEALTH SERVICES, INC. D/B/A SATILLA REGIONAL
MEDICAL CENTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93025

02V0911

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 21 2003**

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the minutes of the Court of Appeals of Georgia*

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Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 22, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0295

MEMORIAL HEALTH UNIVERSITY MEDICAL CENTER, INC.

V. SATILLA HEALTH SERVICES, INC., D/B/A SATILLA REGIONAL MEDICAL
CENTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93026

02V0911

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 22 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0296
DONAVAN M. CASTLEBERRY V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99025

02SC06222

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; R

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 01 2003**

A03D0297. LEWIS CONTRACTING CORP., v. CITY OF RENTZ.

Plaintiff Lewis Contracting Corp. seeks a discretionary appeal from an order awarding attorney's fees to one of the original defendants in this action, the City of Rentz, under OCGA § 9-15-14 (a). Applicant informs this court that its claims against the other defendants will proceed to trial. Because a final judgment has not yet been entered, the order at issue here is non-final and is therefore subject to the additional requirements of the interlocutory appeal procedure. OCGA § 5-6-34 (b); *Scruggs v. Dept. of Human Resources*, 261 Ga. 587, 588 (408 SE2d 103) (1991); *Williams v. Clark-Atlanta University*, 200 Ga. App. 51 (406 SE2d 559) (1991). Because applicant failed to follow the proper appellate procedure its application is hereby *dismissed* as premature.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 01 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, JR., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 22 2003**

A03D0298. MASON BROWN et al. v. PREMIERE DESIGNS, INC.

Mason and Jeanne Brown have filed an application for discretionary appeal, seeking to appeal an order adopting an arbitration award and entering final judgment against them for \$15,101. This is a directly appealable final judgment. When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j). Because this application falls under OCGA § 5-6-35 (j), it is hereby GRANTED. The Browns shall have ten (10) days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The clerk of the state court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 22 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Matijer, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 24, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0299

FATAI A. SALAMI V. STATE OF GEORGIA EX REL CITY COURT
OF ATLANTA

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94025

2002CV54721

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 24 2003

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*Witness my signature and the seal of said court
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Clerk.

Will. L. Maiti

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0300
AMERICAN SAFETY INSURANCE COMPANY ET AL V. R.L.
GRIFFIN ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92025

2002CV56601

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 22, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0301

THE HOSPITAL AUTHORITY OF VALDOSTA-LOWNDES COUNTY
D/B/A SOUTH GEORGIA MEDICAL CENTER V. SATILLA HEALTH
SERVICES, INC., D/B/A SATILLA REGIONAL MEDICAL CENTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93027

02V0911

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 22 2003

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*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 02 2003

A03D0302. JEFFREY A. CRIDER v. THE STATE.

Jeffrey A. Crider, pro se, seeks an appeal from an order filed March 4, 2003, denying a motion to proceed in forma pauperis and application for discretionary appeal, and from an order filed January 24, 2003, denying a motion to void judgment of consecutive sentence. Crider's present application for discretionary appeal was not filed until April 9, 2003.

No application for discretionary appeal may be considered unless it is timely filed under OCGA § 5-6-35 (d). Because Crider's application was not filed within 30 days of the entry of either of the orders complained of, the application is hereby ordered DISMISSED for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAY 02 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martini, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 30, 2003

The Court of Appeals passed the following order

Case No. A03D0302

JEFFREY A. CRIDER V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

70-025
SU98CR776

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 30, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 02 2003**

A03D0303. AMENDALA v. LOFFREDO.

Judith Marie Loffredo f/k/a Judith Marie Amendala, filed a petition for contempt against Richard J. Amendala, alleging that Amendala had failed to abide by certain provisions of the parties' final judgment and decree of divorce and incorporated settlement agreement. Amendala filed an application for appeal to this court from the superior court's order disposing of the motion. Because the ruling complained of directly addresses enforcement of the non-custodial provisions of the parties' divorce decree, Amendala's application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976); compare *Ashburn v. Baker*, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction in contempt action involving child custody issues, but not issues relating to divorce and alimony, is with the Court of Appeals).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 02 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

....., Clerk.
C. Will. L. Martini

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0304

KIMBERLY MAYO V. TODD GODBEE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95026

02CV459

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martine

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 06, 2003

The Court of Appeals passed the following order

Case No. A03D0304

KIMBERLY MAYO V. TODD GODBEE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

95-026
02CV459

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 06, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404)

Docketing Date: May 14, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1286**

KIMBERLY MAYO v. TODD GODBEE

Clerk, Supreme Court of Georgia

Case No. A03D0304

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0305
LANDBRIDGE INTERMODAL EQUIPMENT SALES, INC V. COASTAL
RESOURCES, INC., ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96026

CV011113FR

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAY 02 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 25 2003**

A03D0306. CHATHAM ORTHOPAEDIC SURGERY CENTER LLC., ET AL v. GEORGIA ALLIANCE OF COMMUNITY HOSPITALS, INC.

Chatham Orthopaedic Surgery Center LLC., et al., had filed an application seeking a discretionary appeal of the order, entered March 14, 2003, awarding defendant Georgia Alliance Of Community Hospitals, Inc., attorney fees and expenses of litigation for the services of John S. Sims, Jr. and his staff and the firm of which he is a member. The order on its face establishes, however, that there remains pending the issue of award of "attorneys' fees and expenses of litigation requested by the other attorneys for the Defendant" and that written objections, if any, as to such an award must be filed with the clerk of the trial court.

Thus, the order on its face reflects that it is not a final order under either OCGA § 5-6-34 (a) or OCGA § 5-6-35, and no express determination and direction has been made under OCGA § 9-11-54 (b). Accordingly, this order is interlocutory in substance and an appeal of it can only be perfected under the application procedures of OCGA § 5-6-34 (b). As no timely certificate of immediate review has been obtained and as no timely application for interlocutory review has been filed, this Court lacks jurisdiction over this appeal and it is ordered DISMISSED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

....., Clerk.
William L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 06, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0307

FAYE DOSTER AS NEXT FRIEND OF ONEIDA MCGUFFEY

V. FRANCES BATES AS EXECUTRIX OF THE ESTATE OF JOHNNY
WILLIAM MCGUFFEY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99026

0000041

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 06 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0308
IN THE INTEREST OF : S.H. & V.H.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91026

029011363982 029011364983

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 08 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 29, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0309
JIM GARVIN D/B/A THE GARVIN AGENCY V. SECRETARY OF STATE
SECURITIES ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90026

2002CV60273

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

APR 29 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, APRIL 30, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0310
DURANGO GEORGIA PAPER CO. ET AL V. NOAH CLARK

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94026

03V0036

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 30 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0311
JAMES LEE FORD, SR., ET AL V. TERRY D. JACKSON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92026

98VS0145956D

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

MAY 12 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: June 2, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1361**

JAMES LEE FORD, Sr., et al. v. TERRY D. JACKSON

Clerk, Supreme Court of Georgia

Case No. A03D0311

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 3 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 07, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0312
BARRINGTON L. FREEMAN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70026
030009

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 07 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 15, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0313

BIRON GARVIN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71026

CR910792AB

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 15 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: June 6, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1415**

BIRON GARVIN v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0313

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 12 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 25 2003**

A03D0314. Smith v. The State

Jerry D. Smith filed this discretionary application seeking review of the trial court's denial of his motion for out of time appeal. The denial of the motion for out of time appeal was entered by the trial court on January 17, 2003. Although Smith could have directly appealed the trial court's denial of his motion, he was required to file either this application or a notice of appeal within 30 days after entry of the trial court's order. OCGA §§ 5-6-35 (d); 5-6-38 (a). This application was not filed until April 21, 2003, long after the expiration of the 30 days. Thus, this application is untimely and this Court lacks jurisdiction to consider it. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 25 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0315
ANTONIO TYRONE DICKS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96027

01RCCR117

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 13 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 16, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0316
FABRAL, INC., ET AL V. WILLIE TOLEN

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98027
03V78S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 16 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mart; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 13, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0317

KATHLEEN L. COUSINS V. WILLIAM K. PITTMAN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97027

02A34462

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 13 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 20, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0318

RICARDIUS WISE V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99027

97CR9032C.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 20 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 08, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0319
TYRONE FOWLER V. VARETTA ALINA HAYES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91027

99CV00784

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 08 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 21 2003**

A03D0320. VICKY GARCIA v. DAVID PEREZ.

Vicky Garcia, the mother in this custody dispute, has filed this discretionary application seeking review of the Tift County Superior Court's order declaring, *inter alia*, that jurisdiction of all matters involving the parties' minor child shall be in Tift County. The mother and respondent David Perez are the parents of a daughter born out of wedlock on September 9, 1998. The mother resides in Rabun County. On April 28, 2001, the mother executed a note stating that she was giving permission for the child to reside with her father and stepmother "temporarily." The child has resided with her father in Tift County since that time.

On January 10, 2003, the father filed a petition to legitimate the child and to be awarded custody of the child in Tift Superior Court. The mother did not object to legitimation of the child, but she specifically objected to the custody issue being litigated in the legitimation proceeding. The Tift court issued a Rule Nisi order scheduling a hearing and stating "that temporary legal and physical custody shall vest in DAVID PEREZ and MARILYN PEREZ until further Order of this Court."

On February 11, 2003, the mother filed a petition for habeas corpus in the Rabun County Probate Court, seeking return of the child. On March 3, 2003, the Tift Superior Court held a hearing on the legitimation issue. At the hearing, the court specifically instructed the parties that the status quo of the child was to be maintained until it decided whether it had jurisdiction to determine the custody issues.

On March 6, 2003, the Rabun Probate Court held its hearing on the mother's petition for writ of habeas corpus for the return of the minor child. Neither the father

nor his counsel appeared. On March 7, 2003, the Rabun court granted the mother's petition.

On March 21, 2003, the Tift Superior Court entered an order of legitimation. On March 25, 2003, it issued an order noting that at the March 3, 2003 hearing, it had ordered that the status quo be maintained until it could determine whether it had jurisdiction to determine the custody issue; that in violation of this order, the mother had proceeded on a custody hearing in the Rabun County Probate Court; that the Rabun court's order granting the mother's petition for habeas corpus was void; and that after the child was legitimated in Tift County, jurisdiction to determine custody was also in Tift County. In making this determination, the court considered the fact that the child had lived with the father for two years, there was no prior order awarding custody to either party, Perez is now the legal father of the child, and his withholding of the child was not illegal. The court accordingly held that the father was the legal custodian of the child. Thus, the mother was required either to file a custody petition under OCGA § 19-9-23 in Tift County, and not Rabun County, or to allow the court to rule on the father's petition for permanent legal custody filed with his petition for legitimation. The court further ordered that all matters concerning custody, visitation, and/or child support are to be heard in Tift County. The mother filed this discretionary application from this order. This Court, however, lacks jurisdiction to review this appeal.

"Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (457 SE2d 835) (1995). In this case, the order by its terms leaves the child custody issue for determination and thus does not constitute a final ruling on the merits of the action.

Because the order appealed is not a final order, Garcia was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587, 588 (408 SE2d 103) (1991). The

discretionary application statute, OCGA § 5-6-35, does not allow a party to ignore the applicable interlocutory application procedures of OCGA § 5-6-34 (b) when seeking appellate review. *Bailey v. Bailey*, 266 Ga. 832, 833 (471 SE2d 213) (1996). Because Garcia did not follow the interlocutory appeal procedures, this court lacks jurisdiction to consider this appeal at this time. Accordingly, the application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 21 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 15, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0321

CITY OF EAST POINT V. NEWELL RECYCLING OF ATLANTA, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94027

2002CV53186

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 15 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Martini

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 19, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0322

DANIEL EDWARD HARRIS, ET AL V. ALISON SHELNUT HARRIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92027

2003D0248

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 19 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 15, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0323
CHARLES RACETTE V. MICHAEL VAUGHAN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70027

01CV2377

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 15 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; JR

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 12, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0324

BETTY JOY GODWIN V. UNION RECORDER, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71027

02CV37762C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 12 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Marti, III

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0325
GEORGIA DEPARTMENT OF HUMAN RESOURCES V. GAIL
P. ODOM

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95028
02CV367

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

William L. Martin, Jr.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 15, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0326

SHERRI JEFFERSON V. KEN PALMER CONSTRUCTION, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96028

2001CV24882

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 15 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 14, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S04C0263**

ALVIN MULLINS v. FAYETTE COUNTY

Clerk, Supreme Court of Georgia

Case No. A03D0326

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 17 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 15 2003**

A03D0327. DONNA MARIE SMITH v. THE STATE.

Donna Marie Smith filed this application for discretionary appeal from the superior court's April 1, 2003 order denying her motion for supersedeas bond. An order denying a motion for appeal bond is directly appealable pursuant to *Wade v. State*, 218 Ga. App. 377 (1) (461 SE2d 314) (1995). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not filed a notice of appeal.

In this case, however, applicant has indicated in her application that she filed a timely notice of appeal in the Superior Court of Cobb County, and the Clerk of this Court has confirmed that information by telephone with the Clerk of the Superior Court. Because applicant has filed a timely notice of appeal, OCGA § 5-6-35 (j) does not apply. This application is therefore ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 15 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 28, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0328
ESCAMELLAH JAMELL COLLINS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98028

02SR0800R2

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 28 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0329
ANA GOMEZ V. FRANCIS MANUEL ORTEGA

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97028

2002CV785

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 21 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

C. Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 27 2003**

A03D0330. GEORGIA DEPARTMENT OF REVENUE v. SAWNEE ELECTRICAL MEMBERSHIP CORPORATION

The Georgia Department of Revenue has filed this application for discretionary appeal from the superior court's order granting the motion for summary judgment of Sawnee Electrical Membership Corporation [Sawnee], a nonprofit electric membership cooperative, and denying the Department of Revenue's [Department] motions to dismiss the complaint and for summary judgment. On August 11, 1999, Sawnee filed a claim with the Department, seeking a refund for sales taxes paid that it had collected when it sold electricity to the cooperatives members. Sawnee maintains the amount it seeks as a refund represents overpayments of sales tax. The Department, however, ignored the claim and did not issue a decision on it. Accordingly, on May 11, 2001, Sawnee filed suit against the Department in the superior court, seeking judgment in the amount of the alleged overpayments, plus interest and attorney fees and costs.

Both sides moved for summary judgment, and the Department also filed a motion to dismiss. The trial court granted Sawnee's motion and denied both of the motions filed by the Department. The Department filed this application for discretionary appeal from this order.

Because the agency in this case failed to make any ruling,¹ this is not an appeal from a decision of a superior court reviewing a decision of a state or local administrative agency, or a lower court by certiorari or de novo proceedings, as contemplated by OCGA § 5-6-35 (a) (1), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. This application is thus GRANTED pursuant to OCGA § 5-6-35 (j). Applicant shall have ten days from the date of this order to file its notice of appeal with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 2003

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

C. Will. L. Mattingly Clerk.

¹Sawnee maintains in its response that, at the close of discovery, the Department issued a formal ruling denying the claim for refund. This document, however, is not included with the application or the response, and the trial court makes no mention of it in its order. Thus, the court was not “reviewing [a] decision[]” of the Department, as contemplated by OCGA § 5-6-35 (a) (1).

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 21, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0331

ELAINE YOTHER FORREST V. SCOTT CHRISTOPHER YOTHER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99028

2000CV2678A

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 21 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0332

LIFE STYLES OF SAVANNAH, LLC., ET AL V. SMALLS MASONRY ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91028

CV030236BA

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 27 2003**

A03D0333. COLLIER v. HARROD.

Jerry Larry Collier has filed an application for appeal from an order granting the defendant's motion for summary judgment in a civil action. Because it does not appear that the judgment at issue here is subject to the discretionary appeal procedure, Collier's application is hereby *granted* as a matter of course as required under OCGA § 5-6-35 (j). Collier shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martz; R, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 20 2003**

A03D0334. Stephen Scott a/k/a Zakee Askia Najee v. The State

Stephen Scott a/k/a Zakee Askia Najee filed this application for discretionary appeal seeking review of the trial court's denial of his motion to set aside a judgment entered on March 22, 2002. The trial court's order Scott seeks to appeal was entered on March 11, 2003. This application was not filed until May 5, 2003. An application for discretionary appeal must be filed within 30 days after entry of the order sought to be appealed. OCGA § 5-6-35 (d). Scott's failure to comply with the discretionary appeal requirements deprives this Court of jurisdiction to consider this application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 20 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, MAY 30, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0335

EAGLE GROOVING & GRINDING, INC., ET AL V. DAVID CORNETT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92028

03A020296

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 30 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0336
PATRICIA ANN BAKER V. EARTHGRAINS COMPANY ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70028

03CV28159

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Matig

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 16, 2003

The Court of Appeals passed the following order

Case No. A03D0336

PATRICIA ANN BAKER V. EARTHGRAINS COMPANY ET AL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

70-028
03CV28159

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 16, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

C. Will. L. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: July 7, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1552**

PATRICIA ANN BAKER v. EARTHGRAINES COMPANY et al.

Clerk, Supreme Court of Georgia

Case No. A03D0336

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 10 2003

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 09, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0337
LISA GEORGINA EMBERGER F/K/A LISA GEORGINA BEARD
V. LARRY GENE BEARD, JR.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95029

01CV2786M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 09 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Marti; JR

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 30 2003**

A03D0338. Roberts v. Goodman & Goodman, P.C.

Applicant John A. Roberts seeks discretionary appeal of the trial court's order denying his motion for reconsideration or in the alternative, to set aside or modify an order awarding litigation costs and attorney fees to Goodman & Goodman, P.C., and Dale Goodman ("Goodman"). Although Roberts' motion is labeled a "motion for reconsideration or in the alternative, to set aside or modify," the substance of the motion was to seek reconsideration as Roberts argued the same issues previously considered by the trial court in its March 5, 2003 order. None of the arguments posed by Roberts in his motion fall within the purview of a motion to set aside. A motion for reconsideration does not extend the time for filing a direct appeal or application for discretionary appeal. *Bell v. Cohran*, 244 Ga. App. 510 (536 SE2d 187) (2000); *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Thus, Roberts was required to file an application for discretionary appeal within 30 days after entry of the March 5, 2003 order. OCGA § 5-6-35 (a) (10). Roberts' application was not filed until May 8, 2003 and is therefore untimely. Accordingly, this court lacks jurisdiction to consider this application and it is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 30 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Maitland, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 17, 2003

The Court of Appeals passed the following order

Case No. A03D0338

JOHN A. ROBERTS, ESQ., ET AL V. GOODMAN & GOODMAN, P.C., ET AL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

96-029
2002CV47793

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 17, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Marti, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: July 7, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1538**

JOHN A. ROBERTS v. GOODMAN & GOODMAN, P.C. et al.

Clerk, Supreme Court of Georgia

Case No. A03D0338

Court of Appeals of Georgia

Notice of Petition for Certiorari

JUL 09 2003

filed in office

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0339

WASEEM DAKER V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98029

959376442

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 20, 2003

The Court of Appeals passed the following order

Case No. A03D0339

WASEEM DAKER V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

98-029
959376442

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 20, 2003*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William L. Matier

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: July 1, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S03C1541**

WASEEM DAKER v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0339

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 17 2003

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 05 2003**

**A03D0340. LAMAR COUNTY, GEORGIA, ET AL. v. E. T. CARLYLE
COMPANY.**

Lamar County seeks an appeal from the superior court's order "that a Mandamus Absolute issue" compelling the county to issue a certificate of land use for a landfill. Because the Supreme Court has appellate jurisdiction in mandamus cases, the application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art VI, Sec. 6, Par. III (5); OCGA § 9-6-28.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **JUN 05 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

C. Will. L. Martini, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 16, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0341
ROBERT EUGENE PELZ V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93029

CR03386

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 16 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mait; R

**Court of Appeals
of the State of Georgia**

ATLANTA,

JUNE

02, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0342

LYDIA MARTIN V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99029

03R094

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 02 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 04 2003

A03D0343. PAUL COX, SR. v PERVIS SUE COX

Paul Cox, Sr. filed this discretionary application from the superior court's order on Pervis Sue Cox's petition for contempt, which alleged that Paul Cox, Sr. had failed to abide by certain provisions of the parties' final judgment and decree of divorce and incorporated settlement agreement. Because the ruling complained of directly addresses enforcement of the non-custodial provisions of the parties' divorce decree, Cox's application is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 04 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, JR., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 04, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0344

ST. PAUL REINSURANCE CO., LTD., V. SHIRLEY ROSS ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90029

99G72569

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Maitland

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 24, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0345
CHERYL C. CAVENDER V. JULIAN LECRAW, JR., ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94029

2003CV67684

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

JUN 24 2003

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.

Will. L. Mat; [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 03, 2003

The Court of Appeals hereby passes the following order:

APPLICATION NO. A03D0346
SATILLA REGIONAL MEDICAL CENTER V. ROSEMARY STRICKLAND

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92029

02V1049

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 03 2003**

*I certify that the above is a true extract fromd
the minutes of the Court of Appeals of Georgia*

*Witness my signature and the seal of said court
hereto affixed the day and year last above above written.*

Clerk.
Will. L. Maiti

Court of Appeals of the State of Georgia

ATLANTA,

JUN 16 2003

The Court of Appeals hereby passes the following order:

A03D0347. ANN MCCAULEY v. COOK'S PEST CONTROL, INC. ET AL.

Ann McCauley filed this application for discretionary appeal from the superior court's April 18, 2003, order denying her motion to set aside judgment. The application was docketed in this Court on May 21, 2003, 33 days after the superior court's order was entered. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because McCauley filed her application in this Court more than thirty days after entry of the order she seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 16 2003

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Marti, Jr., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 06 2003**

A03D0347. ANN MCCAULEY v. COOK'S PEST CONTROL, INC. et al.

Upon consideration of McCauley's motion for reconsideration, said motion is hereby granted and her application for discretionary appeal is reinstated. This court has considered McCauley's application for discretionary appeal on its merits and the application is hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 06 2003**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. L. Martin, Jr., Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: September 15, 2003

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S04C0062**

ANN MCCAULEY v. COOK'S PEST CONTROL, INC., et al.

Clerk, Supreme Court of Georgia

Case No. A03D0347

Court of Appeals of Georgia

Notice of Petition for Certiorari

SEP 18 2003

filed in office

Clerk, Court of Appeals of Georgia